

CIVIL COVER SHEET

5:15-cv-6081

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Armstrong World Industries, Inc. and AWI Licensing Company, Inc.

DEFENDANTS

Norton Industries, Inc.

(b) County of Residence of First Listed Plaintiff Lancaster County, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Cuyahoga County, Ohio
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Duane Morris LLP, Thomas T. Loder, 30 South 17th Street, Philadelphia, PA 19103-4196, Telephone: +1 215 979 1000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. 271

Brief description of cause:
Infringement of U.S. Patent No. 9,091,051

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
11/10/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

NOV 11 2015

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Armstrong World Industries, Inc. - 2500 Columbia Avenue, Lancaster, Pennsylvania

Address of Defendant: 1366 W. 117th Street, Lakewood, Ohio 44107

Place of Accident, Incident or Transaction: United States, including but not limited to the E.D. of PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☒ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

Thomas T. Loder

, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 11/10/2015

Attorney-at-Law

43482

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/10/2015

Attorney-at-Law

43482

Attorney I.D.#

CIV. 609 (5/2012)

NOV 11 2015

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

JLS

Armstrong World Industries, Inc.
And AWI Licensing Company, Inc.

v.

Norton Industries, Inc.

CIVIL ACTION

15

6081

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

11/10/2015

Date

215-979-1000

Telephone

Thomas Joder

Attorney-at-law

215-979-1020

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And AWI Licensing Company, Inc.

Attorney for

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E-Mail Address

(Civ. 660) 10/02

NOV 11 2015

\$400

JLS

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ARMSTRONG WORLD INDUSTRIES, INC.
AND AWI LICENSING COMPANY, INC.,**

PLAINTIFFS,

V.

NORTON INDUSTRIES, INC.,

DEFENDANT.

CIVIL ACTION NO.

15 6081

COMPLAINT

Plaintiffs Armstrong World Industries, Inc. ("Armstrong") and AWI Licensing Company, Inc., ("AWI Licensing ") (collectively, "Plaintiffs"), by and through their counsel, hereby file this Complaint for patent infringement against Defendant Norton Industries, Inc. ("Norton").

PARTIES

1. Plaintiff Armstrong is a corporation existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business located at 2500 Columbia Avenue, Lancaster, Pennsylvania.

2. Plaintiff AWI Licensing is a corporation existing under the laws of the State of Delaware, with its principal place of business located at 818 Washington Street, Wilmington, Delaware 19801.

3. Defendant Norton is a corporation which, upon information and belief, is regularly conducting sales activities and otherwise doing business in this judicial district. Defendant Norton is a corporation established and existing under the laws of the State of Ohio. Norton, with its principal place of business located at 1366 W. 117th Street, Lakewood, Ohio

44107, can be served through its registered agent for service: Jack Norton, 28944 Lake Road, Bay Village, Ohio 44140.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, specifically Title 35 of the United States Code.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)(2) and 1400(b)(2).

7. This Court has personal jurisdiction over Norton because, upon information and belief, Norton has transacted business and otherwise conducted sales activities in this district and has committed, contributed to, and induced acts of patent infringement in this district.

FACTS

8. On July 28, 2015, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 9,091,051 (the “’051 Patent”), entitled “Suspended Ceiling System, Securing Members, and Process of Installing a Suspended Ceiling System.”

9. AWI Licensing owns the ’051 Patent.

10. Pursuant to a written agreement between AWI Licensing and Armstrong, Armstrong has an exclusive, world-wide license to use and practice the ’051 Patent, including the right to sublicense the ’051 Patent to third-parties.

11. Norton makes, uses, sells, offers for sale, and/or imports into the Commonwealth of Pennsylvania, specifically including within this judicial district, and elsewhere within the

United States, systems and components that infringe the '051 Patent, including but not limited to systems and components known and referred to herein as the "Access Ceiling System" including the various component parts thereof.

COUNT I: DIRECT INFRINGEMENT OF THE '051 PATENT

12. Norton has directly infringed, and is still infringing, the '051 Patent in the Commonwealth of Pennsylvania, including within this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, or importing suspended ceiling systems, including but not limited to its Access Ceiling System, which suspended ceiling systems embody the patented invention, as set forth in one or more claims of the '051 Patent.

13. Norton will have written notice of its infringement at least via service of this Complaint.

14. As a result of the aforesaid acts, Norton has damaged, and is continuing to damage, Plaintiffs.

COUNT II: INDUCED INFRINGEMENT OF THE '051 PATENT

15. Norton has induced and continues to induce the direct infringement of the '051 Patent by its customers and installers by, among other activities, advising, encouraging, and intending for its customers and installers to use Norton's suspended ceiling systems, including but not limited to the Access Ceiling System, which suspended ceiling systems infringe one or more claims of the '051 Patent.

16. Norton has had knowledge of the '051 Patent and of the infringing nature of its actions since at least the filing and/or service of this Complaint.

17. By continuing the aforesaid acts, Norton has the specific intent to induce the infringement of the '051 Patent and is therefore liable under 35 U.S.C. §271(b).

18. As a result of the aforesaid acts, Norton has damaged, and is continuing to damage, Plaintiffs.

COUNT III: CONTRIBUTORY INFRINGEMENT OF THE '051 PATENT

19. Norton has contributed, and continues to contribute, to the direct infringement of one or more claims of the '051 Patent by its customers and installers by, among other activities, offering to sell or by selling within the United States its suspended ceiling systems and components thereof, including but not limited to the Access Ceiling System, knowing such systems and components to be especially made or especially adapted for use in infringing the '051 Patent.

20. By way of example only, the infringing components and systems offered for sale or sold by Norton include the Access Ceiling System and its associated mounting hardware (including the crane hook) and plank options.

21. The accused suspended ceiling systems and components thereof, including but not limited to the Access Ceiling System and related components, are not staple articles or commodities of commerce suitable for substantial noninfringing use. These systems and components have no substantial noninfringing uses because, upon information and belief, they cannot be used, in any practical sense, for purposes other than causing and/or contributing to the infringement of the '051 Patent.

22. Norton has had knowledge of the '051 Patent and of the infringing nature of its actions since at least the filing and/or service of this Complaint.

23. By continuing the aforesaid acts, Norton has the specific intent to contribute to the infringement of the '051 Patent and is therefore liable under 35 U.S.C. §271(c).

24. As a result of the aforesaid acts, Norton has damaged, and is continuing to damage, Plaintiffs.

DAMAGES AND PERMANENT INJUNCTION

25. Norton's infringement of the one or more claims of the '051 Patent has and will continue to damage Plaintiffs.

26. Plaintiffs seek an award of damages to compensate them for Norton's infringement, which amount of damages shall in no event be less than a reasonable royalty for the use of the patented system set forth in the '051 Patent.

27. In addition, Plaintiffs further seek to permanently enjoin Norton from infringing the '051 Patent. Norton and Armstrong are competitors in the suspended ceiling marketplace. Accordingly, if Norton is not permanently enjoined, Plaintiffs will suffer irreparable harm in the form of lost market share and goodwill, harms and losses for which there is no adequate remedy at law.

28. Plaintiffs intend to seek discovery on the issue of willfulness and reserve all of their rights to seek a finding of willfulness regarding Norton's pre-suit acts of infringement and/or post-suit acts of infringement with respect to the '051 Patent.

JURY DEMAND

29. Plaintiffs hereby request a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure on all issues so triable.

PRAYER FOR RELIEF

As a result of and in light of the foregoing, Plaintiffs respectfully request that the Court find in their favor and against Norton, and that the Court grant Plaintiffs the following relief:

(a) A judgment in favor of Plaintiffs that Norton has directly infringed one or more claims of the '051 Patent, and/or that Norton has indirectly infringed one or more claims of the '051 Patent by way of inducing and/or contributing to the direct infringement by its customers and installers;

(b) A permanent injunction, pursuant to 35 U.S.C. §283, enjoining Norton and its officers, directors, agents, affiliates, employees, installers, branches, subsidiary and parent entities, and all others acting in active concert therewith, from infringing, inducing the infringement of, and/or contributing to the infringement of the '051 Patent;

(c) An award to Plaintiffs of damages adequate to compensate Plaintiffs for Norton's acts of infringement, together with pre-judgment and post-judgment interest thereon;

(d) A declaration by this Court that this is an exceptional case and including an award to Plaintiffs of their reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and

(e) Any and all further relief that this Court deems just and proper.

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*Attorneys for Plaintiffs Armstrong World Industries,
Inc. and AWI Licensing Company, Inc.*

Dated: November 10, 2015